



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region IX
75 Hawthorne St
San Francisco, CA 94105

ENFORCEMENT AND COMPLIANCE
ASSURANCE DIVISION

VIA ELECTRONIC MAIL
RETURN RECEIPT REQUESTED

July 29, 2020

IN THE MATTER OF: GDP Tuning LLC

GDP Tuning LLC
875 Jet Stream Drive
Suite C
Rexburg, ID 83440
barry@gdptuning.com

ATTENTION: Barry Pierce, Owner and Registered Agent

Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)

The United States Environmental Protection Agency ("EPA") hereby requires GDP Tuning LLC, and any of its parent organizations, affiliates, predecessors, successors, and assignees ("GDP Tuning" or "you"), to submit certain information as part of an EPA investigation to determine GDP Tuning's compliance with Section 203 of the Clean Air Act ("CAA"), 42 U.S.C. § 7522, and the applicable regulations at 40 C.F.R. Parts 85, 86, and 1068. Examples of vehicles regulated under these Parts include, but are not limited to, diesel trucks. Appendix A provides definitions, Appendix B provides instructions for your responses to this request, and Appendix C specifies the information that you must submit.

The EPA issues this Request for Information ("Information Request") under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with these requirements and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Manager of Region 9's Air Enforcement Office, Enforcement and Compliance Assurance Division.

You must submit responses to this Information Request to the EPA representative listed below within thirty (30) calendar days from the date you receive this Information Request. Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to the Information Request by this date,

you must contact Roshni Brahmbhatt at (415) 972-3995 or Brahmbhatt.Roshni@epa.gov to request an extension. Any such request should be made in writing as soon as possible after receipt of this Information Request and must explain why an extension is necessary and include a proposed timeline for providing the requested information. The EPA will review your request and may extend the time in which your response must be provided to some or all of the questions.

Failure to provide the requested information may result in the initiation of a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. Pursuant to Sections 208 and 307 of the CAA, 42 U.S.C. §§ 7542(a)–(b), 7607(a), EPA may request additional information, inspections, or depositions. It is important that your responses be clear, accurate, organized, and complete. We will regard any information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes. We may use any information submitted in response to this Information Request in an administrative, civil, or criminal action.

EPA acknowledges that the COVID-19 pandemic may be impacting your business. If that is the case, we will consider your specific circumstances in determining an appropriate timeline for responding to this request for information, while still ensuring that the Agency receives the information it needs to timely confirm your company's compliance with the CAA.

You must submit all requested information under an authorized signature with the following certification (provided in Appendix E):

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

You may be entitled to assert a business confidentiality claim covering all or part of the information provided in response to this Information Request as specified in the Confidentiality of Business Information (“CBI”) regulations, 40 C.F.R. Part 2, Subpart B. You must specify the page, paragraph, and sentence when identifying the information subject to your CBI claim. Appendix D of this Information Request specifies the assertion and substantiation requirements for business confidentiality claims. EPA may, without further notice, provide the public with any information not subject to a CBI claim.

EPA may use any information provided in response to this Information Request in an administrative, civil, or criminal action.

Please provide all requested information in electronic form via email or a file transfer program to:

Roshni Brahmbhatt, Brahmbhatt.Roshni@epa.gov

CC: Janice Chan, chan.janice@epa.gov

Any questions concerning this Information Request should be directed to Roshni Brahmbhatt at (415) 972-3995 or Brahmbhatt.Roshni@epa.gov or have your attorney contact Melanie Shepherdson in the Office of Regional Counsel at (415) 972-3923 or Shepherdson.Melanie@epa.gov.

Roshni Brahmbhatt, Manager
Air Enforcement Office
Enforcement and Compliance Assurance
Division
EPA Region 9 – San Francisco

Cc: Thomas R. Wood, STOEL RIVES LLP, tom.wood@stoel.com

Enclosures

Appendix A

Definitions

All terms used in this Information Request will have their ordinary meaning unless such terms are defined below or in the CAA, 42 U.S.C. §§ 7401 et seq., or the Motor Vehicle Regulations found at 40 C.F.R. Parts 85, 86, and 1068, in which case they shall have their meanings as defined therein.

1. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
2. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
3. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
4. The term “you,” “your,” and “GDP Tuning” means GDP Tuning LLC and any affiliates, predecessors, successors, and assignees.
5. The term “affiliated organization” means any organization or entity associated with

another entity as an agent, parent organization, predecessor corporation, subsidiary organization, or any organization, or entity acting in lieu of another entity.

6. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
7. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part, or component.

Appendix B
Instructions for Responses

1. Provide a complete, detailed response, in English, to each Request in Appendix C below.
2. Please provide your response to this Information Request in electronic form via email or a file transfer program. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
3. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a folder specific to that question or subpart and labeled accordingly. Provide copies of documents, not original documents.
4. When a response is provided in the form of a number, specify the units of measure.
5. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
6. Where you have previously submitted information to the EPA that is responsive to any of the Requests set forth in Appendix C, re-submit that information in accordance with these instructions (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (e.g., electronically, fax, mail), and the individual at the EPA to whom it was provided.
7. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
8. This Request for Information is a continuing request. You must promptly supplement your response to any Request in Appendix C in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.
9. You must maintain an unaltered and complete copy of your website as it exists at the time this Information Request is received for a period of two years. This includes all pages, graphical elements, and text displayed on the website. You must provide this information in readable electronic format to EPA within ten days upon request.

Appendix C

Information Request

GDP Tuning LLC (“GDP Tuning” or “you”) must submit the following information to the United States Environmental Protection Agency pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding the manufacture, sale, or offer for sale of certain parts and products.

1. For each product listed in the table below, identify all hardware and software tool(s) (e.g., EFI Live Autocal, EZ Lynk Auto Agent, MM3 Controller, MM3 Support Pack, CSP4 Support Package, CSP5 Support Package, EZ Lynk Tunes Package, ECO Diesel Support Pack, EZ Lync TCM Tuning, EZ Lync TCM Race, etc.) you used to:
 - a. extract the original equipment manufacturer (OEM) tune files;
 - b. modify the OEM tune files and create your tune files; and
 - c. install your tune files.
2. For each product with the part numbers listed in **Table 1**, below, provide copies of your tune files exactly as those tune files were sold to customers between January 1, 2018 and August 12, 2019. Provide each tune file in .OLS format compatible with WinOLS and all other formats that exist, including but not limited to, .ORI, .tun, .ctz, .ctd, and all other formats compatible with EFILive Tuning Tool, WinOLS, and any of the software tools you identified in response to Request #1b. If multiple versions of a tune file (e.g., GDM13, GDM16, etc.) are responsive to this request, provide the tune file version with the most sales in the responsive time frame. All tune files shall be unencrypted and unlocked such that the tune files can be accessed and reviewed by EPA.
3. For each product with the part numbers listed in **Table 1**, below, provide copies of the corresponding OEM tune files. Provide each tune file in .OLS format compatible with WinOLS and all other formats that exist, including but not limited to, .ORI, .tun, .ctz, .ctd, and all other formats compatible with EFI Live Tuning Tool, WinOLS, and any of the software tools you identified in response to Request #1b. All tune files shall be unencrypted and unlocked such that the tune files can be accessed and reviewed by EPA.

Table 1

Product Name	Part Numbers
ECO Diesel Support Pack	ECO17
GDP 4 Week Lynk Support	EZ4WKPK
EZ Lynk Cummins TCM Race	EZ68RFE
EZ Lynk LML A50 TCM Tuning	EZA50
EZ Lynk Auto Agent	EZCDR
EZ Lynk Auto Agent 2.0	EZCDRAA2
EZ Lynk Tune Package	EZTUNEPACK
EZ Lynk Auto Agent (Includes Lifetime Support Package)	GDP11002
EZ Lynk Auto Agent (Includes 4 Week Support Package)	GDP11003
GDP 4 Week Lynk Support	GDP11005
GDP Lifetime Support Pack EZ Lynk	GDP11006
nGauge Digital Guage w/Support Pack Ford Superduty 2003-2019	GDP21301
nDash 4.3 LCD Digital Gauge w/Support Pack Ford Superduty 2003-2019	GDP21302
nDash or nGauge Support Pack 2003-2019 Ford Superduty	GDP21304
Cummins 2007-2009/Duramax 2001-2010 EFI Live Blank Autocal (Includes Support Package)	GDP30001
Duramax 2011-2016/Cummins 2010-2018 EFI Live Blank Autocal (Includes Support Package)	GDP30002
2015-2016 Duramax T87 Transmission Tuning	GDP411034 EZT87GDP
EFI Live Chevy/GMC Duramax Single Support Package	GDP480007 GDP480009
EFI Live Chevy/GMC Duramax DSP5 Support Package	GDP480008
EFI Live Chevy/GMC Duramax Support Package	GDP480010
EFI Live Chevy/GMC Duramax LML DSP5 Support Package	GDP480011
ECM Tuning for Dodge Cummins 3.0L EcoDiesel (must send ECM to GDP)	GDP611012
EFI Live Dodge Cummins Single Support Package	GDP680001 GDP680003 GDP680005
EFI Live Dodge Cummins CSP5 Support Package	GDP680002 GDP680004
EFI Live Dodge Cummins CSP4 Support Package	GDP680006
MM3 Support Pack 2007.5-2018 Cummins	GDP690001
MM3 Touch Display and MM3 Controller w/Support Pack	GDP692003
nDash 4.3 LCD Digital Gauge w/Support Pack Ford Superduty EO	GDPFND
2010-2012 Cummins EFI Live	R1012CGP
2011-2016 LML EFI Live Autocal	R1116DGP
2013-2017 Cummins EFI Live	R1316CGP
2007-2009 Cummins EFI Live	R0709CGP
2001-2010 Duramax EFI Live	R110DGP

- Identify each person responsible for responding to this Information Request, including his or her title, and the Request(s) to which he or she responded.

Appendix D

Confidential Business Information

An entity may assert a business confidentiality claim covering all or part of the information provided in response to this Information Request for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, subpart B. Under Section 208(c) of the CAA, entities are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, subpart B. If no such business confidentiality claim accompanies the response to this Information Request when it is received by EPA, then such information may be made available to the public without further notice. See 40 C.F.R. § 2.204(a)(3).

Pursuant to 40 C.F.R. § 2.301(h), the EPA possesses the authority to disclose to any authorized representative of the United States information which might otherwise be entitled to confidential treatment. To assist in its review and analysis, the EPA may disclose information provided in response to this and other information requests to an EPA contractor, the Eastern Research Group, under contract number 68HERH19C0004. *See* 84 Fed. Reg. 8859, 59-60 (Mar. 12, 2019).

To assert a business confidentiality claim, an entity must place on (or attach to) all information subject to the claim either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time it provides its response to this Information Request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be provided separately to facilitate identification and handling by the EPA. An entity should indicate whether confidential treatment is only required until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material claimed as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208(a)-(d) and 2.301. Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. *See* 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

Appendix E

Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Information Request, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by _____ [corporate affiliation] to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____